

**TRANSPORTATION DEPARTMENT[761]**

**Notice of Intended Action**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 400, "Vehicle Registration and Certificate of Title," Chapter 401, "Special Registration Plates," Chapter 405, "Salvage," Chapter 425, "Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers," Chapter 431, "Vehicle Recyclers," Chapter 450, "Motor Vehicle Equipment," Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Chapter 524, "For-Hire Intrastate Motor Carrier Authority," and Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code.

The proposed amendments to Chapter 400 strike a requirement that the series of a motor home be included on the certificate of title or registration receipt since a motor home is a type and this requirement is already required by rule; allow the owner of a vehicle who is applying for a bonded title, an owner of a specially constructed, reconstructed, street rod or replica motor vehicle, or an owner who is assigned an identification number to drive or tow the vehicle to and from an examination location with an affidavit to drive; remove street rod and replica motor vehicles from subrule 400.16(4) since the language conflicts with Iowa Code section 321.1(61); and clarify the requirements for converting a motor truck or truck tractor to a motor home.

The proposed amendments to Chapter 401 require that an application for emergency medical services plates be notarized and signed by the applicant and the applicant's service director and clarify that a person who has disabled veteran plates is not required to obtain a physician's statement to obtain a persons with disabilities permit.

The proposed amendment to Chapter 405 allows an owner of a salvage vehicle to obtain a duplicate copy of a salvage theft examination certificate from the issuing officer or agency and strikes the \$10 duplicate fee.

The proposed amendments to Chapter 425 and Chapter 431 amend the definition of "regular business hours" to clarify the time period a business must be open.

The amendments to Chapter 450 are proposed to be effective July 4, 2012, and remove the medical exemption for minimum standard of transparency for excessive dark or reflective front windshields, windows or sidewings. Those individuals who receive a medical exemption prior to July 4, 2012, are allowed to continue to maintain and operate motor vehicles with front windshields, windows or sidewings with less than 70 percent but not less than 35 percent light transmittance.

The proposed amendment to Chapter 511 strikes the option that permits for single-trip, multitrip, annual, annual oversize/overweight or all-systems be issued over the telephone. These permits may still be obtained in person, by facsimile, wire service, electronic communication or by mail.

The proposed amendments to Chapter 524 strike language concerning the transfer of motor carrier certificates. 2011 Iowa Acts, chapter 38, sections 24 and 25, eliminated provisions in Iowa Code sections 325A.4(1) and 325A.21 allowing for the transfer of a regular-route passenger certificate.

The proposed amendment to Chapter 529 adopts the current Code of Federal Regulations (CFR) dated October 1, 2011, for 49 CFR Parts 365-368 and 370-379. The amendments to the Federal Motor Carrier Safety Regulations (FMCSR) that have become final and effective since the 2009 edition of the CFR are listed in the information below. The affected parts are followed by the Federal Register (FR) citations.

Amendments to the FMCSR

The Federal Motor Carrier Safety Administration (FMCSA) established annual registration fees and a fee bracket structure for the Unified Carrier Registration Agreement for the calendar year beginning January 1, 2010, as required under the Unified Carrier Registration Act of 2005, enacted as Subtitle C of Title IV of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended. Effective Date: April 27, 2010.

Part 365 (FR Vol. 75, No. 119, Pages 35318-35329), 6-22-10

The FMCSA eliminated the requirement for most for-hire motor common carriers of property and freight forwarders to maintain cargo insurance in prescribed minimum amounts and file evidence of this insurance with FMCSA. Household goods motor carriers and household goods freight forwarders will continue to be subject to this cargo insurance requirement. Effective Date: March 21, 2011.

Parts 371 and 375 (FR Vol. 75, No. 228, Pages 72987-72999), 11-29-10

The FMCSA amended its regulations to require brokers that arrange the transportation of household goods in interstate or foreign commerce for consumers to comply with certain consumer protection requirements. Brokers must provide: their U.S. DOT number on their advertisements and Internet Web sites; estimates of expected moving charges and brokerage fees; FMCSA pamphlets containing tips for successful moves and the consumer's rights and responsibilities; and the broker's policies concerning deposits, cancellations, and refunds. This rule making is in response to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended, and a petition for rule making from the American Moving and Storage Association. Effective Date: January 28, 2011.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet e-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).
5. Be received by the Office of Policy and Legislative Services no later than April 24, 2012.

A meeting to hear requested oral presentations is scheduled for Thursday, April 26, 2012, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by May 7, 2012.

After analysis and review of this rule making, no impact on jobs has been found. The purpose of this rule making is to streamline efficiencies for the Department. Item 13 removes the option for businesses to call the Department when seeking a permit; however, the online feature should be more convenient for both the Department and Iowa businesses. Further, companies without access to the Internet may submit their applications through mail or facsimile.

These amendments are intended to implement Iowa Code chapters 321, 321E, 321H, 322, 325A and 327B.

Proposed rule-making actions:

ITEM 1. Amend subrule 400.7(4) as follows:

**400.7(4)** Description of the vehicle, including the following items. These items may be represented on the title and registration by code letters or numbers.

- a. Vehicle identification number.
- b. Type, such as automobile, trailer, truck, etc.
- c. Style.
- d. Make, model, and model year.
- e. ~~Series of a motor home, which will be shown on the title as “motor home a,” “motor home b” or “motor home c.”~~
- f. ~~e.~~ Number of engine cylinders.
- g. ~~f.~~ Color.
- h. ~~g.~~ Weight and registered gross weight.
- i. ~~h.~~ The square footage of floor space of a manufactured or mobile home or travel trailer, as determined by measuring the exterior.
- j. ~~i.~~ The odometer mileage and whether the mileage is “actual,” “not actual,” or “exceeds mechanical limits.”

ITEM 2. Amend paragraph **400.13(1)“d”** as follows:

d. After the cash deposit or surety bond has been deposited, a motor vehicle investigator of the department may examine the vehicle to verify the information submitted on the application is correct. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. After verifying the information, the investigator shall give to the applicant a document authorizing the county treasurer to issue a title for and register the vehicle. Should the vehicle not meet the equipment requirements of Iowa Code chapter 321, the investigator shall authorize the county treasurer to issue a title and registration but instruct the county treasurer to immediately suspend the registration until such time as the vehicle meets these equipment requirements. If applicable, the investigator shall also affix an assigned identification number to the vehicle and give to the applicant an assigned vehicle identification number (VIN) form.

ITEM 3. Amend paragraph **400.16(2)“b”** as follows:

b. The investigator shall contact the applicant ~~in person or by telephone~~ and schedule a time and place for an examination of the vehicle and the ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination location by completing an affidavit to drive on a form provided by the department. The form shall state that the vehicle is reasonably safe for operation and must be signed by the owner. The applicant, when appearing with the vehicle for the examination, shall submit to the investigator the ownership document for the vehicle, the ownership documents for essential parts, and a weigh ticket indicating the weight of the vehicle. However, a weigh ticket is not required for motorcycles, trucks, truck tractors, road tractors or trailer-type vehicles.

ITEM 4. Amend subrule 400.16(4) as follows:

**400.16(4)** *Model year.* The model year of a specially constructed, or reconstructed, ~~street rod or replica~~ motor vehicle is the year the vehicle is approved by the department as a specially constructed, or reconstructed, ~~street rod or replica~~ motor vehicle.

ITEM 5. Amend subrule 400.39(2) as follows:

**400.39(2)** A vehicle manufactured as a truck tractor or motor truck shall not be registered as a motor home unless the vehicle has been substantially altered to change its type and mode of operation so that it is a reconstructed vehicle as defined in Iowa Code section 321.1.

ITEM 6. Amend paragraph **400.51(2)“b”** as follows:

b. *Examination.* A motor vehicle investigator shall contact the owner and schedule a time and place for examination of the vehicle, component part, fence-line feeder, grain cart or tank wagon and ownership documents. The owner of the vehicle may drive or tow the vehicle to and from the examination

location by completing the affidavit to drive section on the certification of compliance form. The affidavit shall state that the vehicle is reasonably safe for operation and must be signed by the owner.

If the vehicle has had a cab, body, or frame change, the owner shall have, for evidence of ownership for the replacement cab, body, or frame, a bill of sale with a description of the part, complete with the manufacturer's identification number, if any, and the name, address, and telephone number of the seller. The bill of sale, the vehicle, and the cab, body, or frame that has been replaced shall be made available for examination at the time and place scheduled.

ITEM 7. Amend subrule 401.10(1) as follows:

**401.10(1)** Application for emergency medical services (EMS) plates shall be submitted to the Iowa department of public health department on a form prescribed by the department of ~~transportation~~. The department of public health shall determine whether applicant and the applicant's service director shall sign the application form certifying that the applicant is a current member of a paid or volunteer emergency medical services agency and, if so, certify this fact on the application form. The signatures must be original and notarized. For purposes of this subrule, "service director" means a service director as defined in Iowa department of public health rule 641—132.1(147A).

ITEM 8. Amend subrule 401.20(1) as follows:

**401.20(1) Application.** Application for special plates with a persons with disabilities processed emblem shall be submitted to the county treasurer on a form prescribed by the department.

a. The application shall include a signed statement written on the physician's, chiropractor's, physician assistant's or advanced registered nurse practitioner's letterhead. The statement shall certify that the owner or the owner's child is a person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.

b. If the person with a disability is a child, the parent or guardian shall complete the proof of residency certification on the application or complete and submit a separate proof of residency Form 411120, certifying that the child resides with the owner.

c. A new application form is not required when an individual's application for issuance of persons with disabilities plates, disabled veteran plates, nonexpiring removable windshield placards or parking stickers has previously been approved.

d. In lieu of submitting the signed medical statement required under paragraph 401.20(1)"a," an individual who is eligible for disabled veteran plates but has not been issued them may submit certification from the U.S. Department of Veterans Affairs that the United States government has provided or assisted in providing a motor vehicle to the individual.

ITEM 9. Amend subrule 405.15(2) as follows:

**405.15(2) Affidavit of salvage vehicle repairs form and salvage theft examination certificate.**

a. The affidavit of salvage vehicle repairs form may be obtained from the office of motor vehicle enforcement at the Des Moines address, any local enforcement agency with officers certified to conduct salvage theft examinations or any local county treasurer's office.

b. The salvage theft examination certificate shall be a controlled form and furnished by the department.

c. The owner of the vehicle may obtain a duplicate copy of the salvage theft examination certificate upon written request ~~and payment of a \$10 fee to the office of motor vehicle enforcement at the Des Moines address~~ issuing officer or agency.

d. The salvage theft examination certificate is not transferable.

ITEM 10. Amend rule ~~761—425.3(322)~~, definition of "Regular business hours," as follows:

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Except as provided in Iowa Code section 322.36, regular business hours for a motor vehicle or travel trailer dealer shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m. Monday and through Friday, inclusive.

ITEM 11. Amend subrule **431.1(2)**, definition of “Regular business hours,” as follows:  
“*Regular business hours*” means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Regular business hours shall include a minimum of 32 posted hours between 7 a.m. and 9 p.m. Monday and through Friday, inclusive.

ITEM 12. Amend subrule 450.7(3) as follows:

**450.7(3) *Dark window exemption.***

a. ~~A person suffering from a severe light sensitive condition may be exempt from the standard of transparency if the need is documented by a physician. The exemption does not apply to a commercial vehicle. Effective [insert effective date of these amendments], no exemption shall be granted from the minimum standard of transparency set forth in subrule 450.7(2).~~

b. ~~A passenger or operator of a motor vehicle who for medical reasons requires fitted with a front windshield, a front side window or a front sidewing with less than 70 percent but not less than 35 percent light transmittance may obtain before [insert effective date of these amendments], may continue to be maintained and operated with a front windshield, a front side window or a front sidewing with less than 70 percent but not less than 35 percent light transmittance on or after [insert effective date of these amendments], so long as the vehicle continues to be used for the transport of a passenger or operator who obtained Form 432020, to be which documented a medical need for such reduced transparency, and was signed by the person’s physician and before [insert effective date of these amendments]. Form 432020 must be carried at all times in the vehicle to which the exemption applies. Form 432020 is available from the office of vehicle services. At such time as the vehicle is no longer used for the transport of the passenger or operator who is the subject of Form 432020, the exemption expires and may not be renewed. The owner of the vehicle to which the exemption applied must return the vehicle to conformance with the minimum standard of transparency set forth in subrule 450.7(2) within 60 days of expiration of the exemption.~~

c. “Physician” as used in this rule means a person licensed under Iowa Code chapter 148, ~~150, 150A,~~ 151 or 154.

ITEM 13. Amend paragraph **511.4(1)“a”** as follows:

a. Permits for movement on the primary road system may be obtained in person, by ~~telephone,~~ facsimile, wire service, electronic communication, or by mail at the address in subrule 511.2(1).

ITEM 14. Amend subrule 524.11(1) as follows:

**524.11(1) *Requirement.*** Motor carriers of bulk liquid commodities (nondairy) and passengers shall attend an approved safety education seminar within six months of issuance of the permit or certificate except as provided in subrule 524.11(4). ~~This includes transfers of motor carrier certificates.~~ The individuals in attendance shall be the persons responsible for the safety records and driver training. Failure to attend an approved safety education seminar within the time provided shall result in suspension of the motor carrier permit or certificate.

ITEM 15. Rescind and reserve rule **761—524.16(325A)**.

ITEM 16. Amend rule 761—529.1(327B) as follows:

**761—529.1(327B) *Motor carrier regulations.*** The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2009~~ 2011, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.